

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO <u>et al.</u> , Debtors. ¹	PROMESA Title III No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtors.	PROMESA Title III No. 17 BK 4780-LTS

MEDIATION TEAM'S SEVENTH NOTICE AND REPORT

To the Honorable United States District Judge Laura Taylor Swain:

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PLEASE TAKE NOTICE that, on April 8, 2022, the Court entered an order (the “Appointment Order”)² appointing a Mediation Team comprising the Honorable Shelley C. Chapman as lead mediator, the Honorable Robert D. Drain, and the Honorable Brendan L. Shannon (collectively, the “Mediation Team”) to facilitate confidential negotiations among the Mediation Parties (and any other Mediation Party added in the Mediation Team’s discretion) regarding the Mediation Topics (the “Mediation”). On the same date, the Court entered its *Order Establishing the Terms and Conditions of Mediation* (the “Terms and Conditions Order”).

PLEASE TAKE FURTHER NOTICE that, on December 30, 2022, the Court entered its *Notice and Order Regarding Mediation Team* stating that, due to the retirement of the Honorable Robert D. Drain from judicial service on December 31, 2022, “effective December 31, 2022, and until further notice (including, without limitation, notice of reappointment of Judge Drain to the Mediation Team in a private capacity), the Mediation Team will consist of Hon. Shelley C. Chapman (ret.) and Hon. Brendan Linehan Shannon.”³

PLEASE TAKE FURTHER NOTICE that, on March 3, 2023, the Court approved the *Disclosure Statement for the Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023, and scheduled the hearing to consider confirmation of the *Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023 (the “Plan”), for July 17–21, 24, 26–28, 2023.⁴

² Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Appointment Order.

³ Case No. 17-3283, Docket No. 23187; Case No. 17-4780, Docket No. 3137. Hereinafter, the term “Mediation Team” shall refer to the Hon. Shelley C. Chapman (ret.) and the Hon. Brendan Linehan Shannon.

⁴ Case No. 17-3283, Docket No. 23675; Case No. 17-4780, Docket No. 3304.

PLEASE TAKE FURTHER NOTICE that, on March 22, 2023, the Court entered the *Opinion and Order Granting in Part and Denying in Part the Financial Oversight and Management Board for Puerto Rico's Motion for Summary Judgment and the Defendant's and Intervenor-defendants' Cross-motion for Summary Judgment* (the "Lien Challenge Order"),⁵ among other things, directing certain parties to commence working with the Mediation Team to consensually resolve outstanding disputes regarding the Plan.

PLEASE TAKE FURTHER NOTICE that the termination date of the Mediation (the "Termination Date") has been extended by the Court multiple times. Pursuant to the Court's *Order Concerning Mediation Team's Fourth Notice and Report*, dated April 24, 2023 (the "April 24 Order"),⁶ the Court extended the Termination Date through and including July 28, 2023. The April 24 Order also directed the Mediation Team to file monthly status reports, beginning on May 3, 2023, concerning "whether there has been genuine engagement in the Mediation process, including the number of completed scheduled mediation session that occurred during the preceding month and how many are at that point scheduled for the current month."⁷

PLEASE TAKE FURTHER NOTICE that, following an urgent status conference held on May 8, 2023, the Court entered its *Order Memorializing Certain Rulings Made at the May 8, 2023 Status Conference* on May 9, 2023 (the "May 9 Order").⁸ The May 9 Order, *inter alia*, directed the principal Mediation Parties to "meet and confer promptly with the Mediation Team to establish a future mediation schedule for the benefit of all parties."⁹ The May 9 Order also

⁵ Adv. Pro. No. 19-00391, Docket No. 147.

⁶ Case No. 17-3283, Docket No. 24061; Case No. 17-4780, Docket No. 3404.

⁷ April 24 Order, ¶ 4.

⁸ Case No. 17-4780, Docket No. 3477.

⁹ May 9 Order, ¶ 1.

directed the Mediation Team to file a schedule for future mediation sessions between the Mediation Team and the principal Mediation Parties by May 16, 2023.

STATEMENT OF MEDIATION TEAM

1. The Mediation Team respectfully submits this Seventh Notice and Report as a status report in accordance with paragraph 4 of the April 24 Order.
2. In-person mediation sessions were conducted by the Mediation Team on May 22 and 23, 2023. The following Mediation Parties participated in those sessions (i) the Oversight Board, (ii) the Ad Hoc Group, (iii) Assured, (iv) Syncora, and (v) AAFAF. While discussions between and among certain of such parties continued thereafter, it appears that such discussions are now at a standstill. It is unclear to the Mediation Team when (or whether) discussions will resume.
3. As of the filing of this Seventh Notice and Report, subsequent sessions with these Mediation Parties and/or sessions with additional Mediation Parties have not been scheduled.
4. The Mediation Team is available to answer any questions the Court may have.

Dated: June 13, 2023

/s/ Shelley C. Chapman
SHELLEY C. CHAPMAN
Willkie Farr & Gallagher LLP

/s/ Brendan L. Shannon
BRENDAN L. SHANNON
United States Bankruptcy Judge